SECHET

15 February 1955

Memorandum for: Deputy Director (Administration)

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Subject

: Special Living Allowances -

OGC HAS REVIEWED.

MIRODUCTION

	1. Reference is made to the ettached file which involves (a) the payments of \$10.00 per diame for a period up to cirty (60)
25X1A	days in lieu of temporary lodging allowances to seven employees
25X1A	upon their arrival FCS in
25X1A	living allowence to
	on PCS. The comments of this office concerning the propriet of these payments to the recipients will be joined in this memorandum
. 25X1A	inseranch as elements common to both submissions are involved. The case of the seven employees are not before
	this office for the first time, having been proviously commented
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- 2. In our memorandum of 1 October 1953, addressed to the laspector General, relative to the case, we concluded that there was no legal basis for authorizing the special living allowance, observing further that there appeared to be no valid justification. We noted, at that time, that the area division had inquired about the possibility of paying under other types of allowances before a special living allowance was suggested, for which reason we added there was every reason to know that the allowance should not have been authorized or, in the alternative, that there was every reason to ask for a ruling in advance.
- In our memorandum of 19 August 1952 to the Chief. Finance Division, we expressed the opinion that payments in excess of the territorial cost-of-living allowence prescribed by the regulations of the Civil Service Commission were improper. This opinion was

prompted by memorandum of I July 1952 from the Chief, Finance Division, wherein the payment of living ellowances, other then these prescribed under normal regulations, was questioned.

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Various arguments

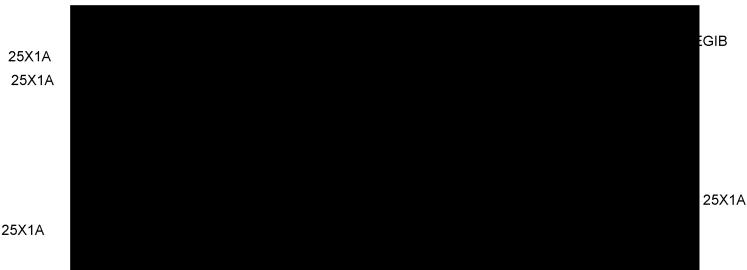
are advanced in support of the recommendations for relief and additional facts and the recognisably interesting arguments that are advanced in support of the recommendation for relief, we feel that no less than a full review of the case is warranted under the circumstances, not only because of the importance to the Agency but also to the individuals concerned. We shall, therefore, initially proceed to a restatement of the facts in the case of the seven employees as evidenced by the available record. Fallowing an analysis of the facts and the arguments in support of the recommended relief, we shall state our conclusions. We shall likewise proceed in the same manner with respect to the case, which, because of the presence of other elements, is somewhat more complex and will require some additional treatment.

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ARGUMENT

Argument I. Bardebip.

1. This argument proceeds on the principle that some penalty attaches if the employee is required to meet what may well be high expenses of living at his post out of salary. The argument continues by referring to tight bousing conditions, high prices, and the noneligibility of civilian employees for Government accompaciations. The conclusion is reached that an unwarranted financial hardship is imposed and that relief therefrom unwarranted. We refer once again to our decision of 19 August 1952. We believe it clearly established that there was one and only one scurce of authority with respect to the greating of territorial cost-of-living allowences. That authority was the Civil Service Commission. That authority oxisted from the time of the cited statutes and Executive Order 10,000 of 16 September 1946. Unlike the authority granted to this Agency by Seccutive Order 19100 to great allowances pursuent to Sections 901(1) and 901(2) of the Foreign Service Act, this Agency passesses no residual authority to enter the regulatory field concerned. We must necessarily held that this ares is pre-empted by the Civil Service Commission and that the only basis by which this Agency may enter the area is through due recognition of operational causation or situation.

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And Land Control of

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ONCLUSE N

i. Under the facts and circumstances as presented to us, we are compelled to the conclusion that there is nothing in these cases which requires the application of rules other than those applying to the Government generally. We believe there is agreement that no basic arising out of operations peculiar to this Agency existed for the grant of the control of the cont-of-living allowances. Therefore, the payments to dive were not consistent with Agency solicy based on law. We, therefore, confirm our previous decisions on this subject.

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Lawrence A. Houston General Councel

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cc: Inspector General

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Subject /

Signer

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